

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

DAMON THOMPSON

PLAINTIFF

v.

Civil No. 06-6023

CAPTAIN MELVIN STEED

DEFENDANT

O R D E R

Now on this 12th day of March, 2008, comes on for consideration the **Report And Recommendation Of The Magistrate Judge** (document #25), and plaintiff's **Objections** thereto (document #26), and from these documents and the supporting documents filed in connection therewith, the Court finds and orders as follows:

1. Plaintiff complains that defendant violated his First Amendment rights by threatening to file harassment charges against him if he continued to submit grievances about a particular disciplinary action. He also claims that his due process rights were violated when he was punished without having an opportunity to present his side of the matter. Finally, he claims that the conditions of his confinement violate the Constitution.

Defendant moved for summary judgment, and the Magistrate Judge assisted plaintiff in developing his claims by furnishing him a questionnaire upon which he could flesh out his position on the issues. Following that, the Magistrate Judge issued his Report And Recommendation.

2. The Magistrate Judge reported that he found no constitutional violation with regard to the First Amendment issue,

because there was no retaliation for plaintiff's filing of grievances, although some grievances did go unanswered. Plaintiff does not object to this portion of the Report And Recommendation.

The Magistrate Judge also reported that plaintiff was not subjected to any unconstitutional conditions of confinement.

Plaintiff objects that he could have offered more proof on this issue if objects and documents that were removed from his cell during searches had been returned to him. This objection will be overruled, because plaintiff offers nothing that would lead the Court to believe that even if plaintiff had these items, they would strengthen his conditions of confinement claim to the point where it took on constitutional dimensions.

Finally, the Magistrate Judge reported that he found a fact issue to exist with regard to plaintiff's due process claim. There is no objection to this portion of the Report And Recommendation.

3. The Magistrate Judge recommended that plaintiff's First Amendment and conditions of confinement claims be dismissed, and his due process claim be addressed further. The Court, having reviewed the entire file, finds this recommendation sound.

IT IS THEREFORE ORDERED that the **Report And Recommendation Of The Magistrate Judge is adopted in toto**, and plaintiff's **Objections** thereto are **overruled**.

IT IS FURTHER ORDERED that, for the reasons stated in the

Report And Recommendation Of The Magistrate Judge, Defendant's [sic] Motion For Summary Judgment (document #19) is **granted in part and denied in part.**

The Motion is **granted** as to plaintiff's First Amendment and conditions of confinement claims, and these claims are hereby **dismissed.**

The Motion is **denied** with regard to plaintiff's due process claim, and that matter is **remanded** to the Magistrate Judge for further handling.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE